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COMMON MOTION FOR A RESOLUTION

pursuant to Rule 37(2) of the Rules of Procedure

by

on behalf of the Group

on the International Criminal Court

B5-..../2002

European Parliament resolution on the International Criminal Court (ICC)

The European Parliament,

- having regard to its previous resolutions on the ICC, in particular those of 19 November 1998¹, of 18 January 2001², of 28 February 2002³ and of 4 July 2002⁴,
 - having regard to the Rome Statute of the International Criminal Court and in particular its articles 16, 86 and 98,
 - having regard to the declaration by the Council Presidency on behalf of the EU on the International Criminal Court of the 1st of July 2002⁵,
- A. whereas a positive development of the transatlantic relations could reinforce the convergence between the European Union and USA in the major values and objectives of democracy and the rule of law and should be done in the framework of a strong commitment in favour of a multilateral approach of the problems,
- B. Considering that the treat of the ICC contributes decisively to the implementation of international law and justice and can thus be considered as an element of the political criteria of Copenhagen,
- C. Regretting the UN Security Council's Resolution 1422 adopted on the 12th of July 2002 on United Nations established or authorised operations, whereby the ICC shall not commence or proceed with investigation or prosecution of any case of acts or omissions from current or former officials or personnel from a contributing State not a party to the Rome Statute, for the period of one year starting on the 1st of July 2002 and with the possibility of renewal each 1st of July for further 12 month period,
- D. whereas the current world-wide political pressure by the Government of the United States of America to persuade States Parties and Signatory States of the Rome Statute as well as non-signatory states to enter into bilateral immunity agreements which seek, under misuse of its article 98, to prevent US government officials, employees, or military personnel or (Greens) nationals from being surrendered to the International Criminal Court, should not succeed with any country, in particular with the EU Member States, the applicant countries to the EU, the countries concerned in the Stabilisation and Association Process, the countries associated with the EU in the Euro-Mediterranean partnership, the Mercosur, Andean Pact and San José Process countries, as well as with the ACP countries,

¹ EP resolution on the International Criminal Court

² EP resolution on the ratification of the Rome Treaty to establish the Permanent International Criminal Court

³ EP resolution on entry into force of the Statute of the International Criminal Court

⁴ EP resolution on the draft American Servicemembers's Protection Act (ASPA)

⁵ Declaration of the Presidency on behalf of the European Union to mark the entry into force of the Rome Statute of the International Criminal Court

- E. regretting that the Council and the Commission did not address clear political guidelines in this regard to the applicant countries to the EU, as well as to all other countries associated with the EU by different agreements,
- F. Deeply disappointed by the decision of the Romanian government to sign an agreement with the U.S. contradicting the spirit of the status of the ICC and worried that three other applicant countries, Czech Republic, Lithuania, Malta haven't yet ratified the treaty,
- G. Considering as unacceptable that Turkey has not even signed the Treaty,
- H. deeply concerned by the approach expressed by representatives of some of the Governments of EU Members States towards the ICC, during the informal meeting of the EU Foreign Ministers in Helsingor the 29th and the 30th August 2002, and with the lack of clear information on the outcome of the meeting held in New York on 13 September between the US Administration and the Foreign Affairs Ministers of the 15 EU Members States;
- I. Considering that the independent prosecutor may prosecute criminal acts before ICC, which are not prosecuted in the State Parties whose national committed a crime,
- J. insisting that at the EU Council next 30 September 2002, the common guidelines to be adopted shall not reflect any step backwards in the EU support to the full effectiveness of the ICC and shall respect the letter and the spirit of the EU common position already adopted in this regard,
 - 1. underlines that no immunity agreement should ever open the possibility for impunity of any individual accused of war crimes, crimes against humanity or genocide;
 - 2. underlines that the USA's heavy involvement in peacekeeping operations and considers that the credibility of the EU position towards the USA could be strengthened by accepting a proportional contribution in peacekeeping operations ;
 - 3. firmly believes that the ICC States Parties and Signatory States have the obligation under international law not to defeat the object and purpose of the Rome Statute under which, according to Preamble of the Rome Statute, "the most serious crimes of concern to the international community as a whole must not go unpunished" and that States Parties are obliged to cooperate fully with the Court, in accordance to Art 86 of the Rome Statute, thus preventing them from entering, into immunity agreements that extract certain citizens from the State's or the International Criminal Court's jurisdictions , undermining the full effectiveness of the ICC and jeopardising its role as a complementary jurisdiction to the State jurisdictions' and a building block in global collective security ;
 - 4. underlines that the Rome Statute was ratified by all the 15 EU Member States as an essential element of the EU democratic model and values, and calls upon the Member States to make the Rome Statute a part of the EU "acquis"; considers thus incompatible the signature of such an agreement with the membership in the EU;

5. Expects the Governments and the Parliaments from the EU member states to refrain from adopting any agreement which undermines the effective implementation of the Rome Statute;
6. addresses the same request to the applicant countries to the EU, the countries associated with the EU in the Euro-Mediterranean partnership, the Mercosur, Andean Pact and San José Process countries, the countries concerned in the Stabilisation and Association Process, as well as the ACP countries Parties or Signatory to the Statute; encourages the Parliaments of Romania, Israel, Tajikistan and East Timor not to ratify the agreements signed by their Governments with the USA , under article 98 of the Rome Statute ;
7. invites all Signatory States to ratify the Statute and calls in particular the Czech Republic, currently in the chair of the UN General Assembly, Lithuania and Malta to do it with utmost urgency, in order to prevent any delay to the current accession process to the EU;
8. is convinced that the EU Member States and the candidate countries should act as a joint block in the establishment of the ICC, in order to fully take on its commitment and to enable it to succeed in preserving its independence, impartiality and integrity, in particular by:
 - reinforcing the EU political dialogue with the USA, inside and outside the Transatlantic dialogue, with the purpose of persuading its Government to change its attitude towards the ICC,
 - reinforcing the EU financial support to the ICC goal through the funding of actions under the European Initiative for Human Rights,
 - adopting a common approach regarding the future appointment of its judges, the prosecutor and staff; respecting the principles of transparency and full consistency with the criteria of the Rome Statute in particular on gender equality;
9. invites the Conference of European Affairs Committees (COSAC) to examine at its next meeting in October¹, the current situation regarding the ICC and the possible violation of the Rome Statute by the bilateral agreements proposed by the USA Government under its article 98;
10. invites the Governments and national Parliaments of the applicant countries, all other countries associated with the EU by different agreements to immediately respectively sign and ratify the Treaty on ICC ;
11. recalls its request to the Council to present to the European Parliament a progress report on the ICC before the next Copenhagen European Council in December; and is of the opinion that this report should identify any international agreement related to the ICC and evaluate its compatibility with the Rome Statute and therefore with the EU acquis;

¹ Under points II 5 and 6 of the Protocol to the Treaty on the "role of National Parliaments in the European Union"

12. urges member States, candidate countries, and all other countries associated with the EU by different agreements to undertake analysis of the legal implications of the Security Council Resolution 1422 and calls for strong action against the renewal of the UN Security Council Resolution in July 2003,
13. instructs its President to forward the present resolution to the EU Council, the EU Commission, the Parliaments of Romania, Israel, Tajikistan and East Timor as well as to the Government of USA and to its Congress; the UN Secretary General ; to the COSAC, as well as to the National Parliaments of the candidate countries, the above-mentioned countries associated with the EU by different agreements and to the President of the Assembly of State Parties to the Rome Statute of the ICC.